

October 11, 2011

Marlene H. Dortch, Secretary  
Federal Communications Commission  
445 12<sup>th</sup> Street, SW  
Washington, DC 20554

**Re: Ex Parte Notice of Nexus Communications, Inc. WC Docket Nos. 11-42 and 03-109,  
CC Docket No. 96-45**

Dear Secretary Dortch:

On Friday, October 7, 2001, the undersigned counsel for Nexus Communications, Inc. (“Nexus”) spoke with Kim Scardino of the Wireline Competition Bureau to discuss the proposed reforms to the Low Income program in the above-captioned dockets. In particular, we discussed Nexus’ view that any further interim processes for “de-duplicating” Low Income support should focus on addressing any duplicate Link Up support and that any such efforts must conform to the following principles: it must be administered by a neutral, third party hired by industry and it must include processes to facilitate consumer changes in ETCs that are efficient, quick and administratively simple for the subscriber and the ETCs.

While Nexus is encouraged to see other ETCs join Nexus in its efforts to continually seek ways to eliminate waste, fraud and abuse in the Low Income program Nexus is concerned about proposals that lack any formal process to ensure that a consumer seeking to change ETCs will not encounter delay and administrative burdens. Failure to include such a solution would create an anti-competitive effects and lead to consumer complaints. Additionally, Nexus strongly feels that any interim—and indeed, any permanent—Low Income database must only be administered by an independent third party. In this instance, “independent” means that the administrator must not be an ETC itself, have any financial or ownership interest in any ETC and importantly, it must not administer the subscriber database for any ETC. Finally, any such administrator must be chosen via a competitive bidding process, which was the process used in the Interim Duplicate Resolution Process (“IDRP”) to de-duplicate Lifeline funding. The IDRP—in which Nexus has been an active participant—has worked well as an industry-led and Commission-overseen process in large part because the entity that has administered subscriber information is completely independent of any ETC.

From the beginning of the present rulemaking process, Nexus has expressed its support for a permanent database solution, which, if implemented, would immediately solve many of the Commission’s concerns expressed in the NPRM. In order to further such a solution, Nexus

proposed during counsel's call with Ms. Scardino to initiate an interim, self-regulatory de-duplicate process focused on Link Up, which is something that has yet to be addressed in any interim process. Nexus proposes to create a process that would particularly focus on Link Up but that could be quickly expanded to encompass Lifeline as well.

Nexus has also expressed concern about the additional, burdensome administrative processes that "full certification" would place on America's poor. For example, requiring consumers—who are often in transient housing or homeless—to provide copies, faxes or scans of their food stamp cards will almost certainly prevent the very neediest Americans from receiving Low Income services. States that have such requirements now see a much lower rate of program participation, but it is certainly not due to a lack of need. With almost *one in eight Americans receiving foodstamps*, and many others who qualify, widespread qualification for the Low Income program is simply a fact.<sup>1</sup> The answer to consumers' inability to produce paperwork on command after a total lack of Commission attention to this program for years is to implement a database or data-dip mechanism like the CARES database in Wisconsin that would allow ETCs to quickly verify subscriber eligibility, not to deny these modest benefits to consumers<sup>2</sup> In other words, the solution is to get a permanent database up and running as soon as possible.

Industry can and should work together and with the Commission to bring a permanent database solution to eliminate any waste, fraud or abuse in this program, but for such a solution to work, the Commission must work with the same goals and constraints faced by ETCs everyday—meeting widespread need among qualified consumers that have difficulty navigating administrative red tape. Instead of putting the burden of paperwork and proof on these consumers, industry should be tasked with creating a database in cooperation with the Commission, the states and USAC to swiftly eliminate duplicate support to be quickly followed up by electronic eligibility verification. The savings from the duplicate elimination alone would more than pay for such a solution, and this industry-led model has worked successfully in other contexts such as local number portability. The IDRP process for temporary Lifeline de-duplication is industry-led and overseen by the Commission and the model has been extremely

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<sup>1</sup> See Supplemental Nutrition Assistance Program, Data as of March 2011, United States Department of Agriculture (showing increase from 30 million to 45 million citizens, and from \$3.6 to \$5.7 billion monthly in food stamp program from October 2008 to January 2011), available at <http://www.fns.usda.gov/pd/34SNAPmonthly.htm>; see also Reaching Those in Need: State Supplemental Nutrition Assistance Program Participation Rates in 2008 -- Summary, United States Department of Agriculture, Office of Research and Analysis, December 2010, p. 1 ("Nationally, the SNAP participation rate among all eligible persons was 67 percent (Leftin, 2010) in fiscal year 2008"), available at <http://www.fns.usda.gov/ora/menu/Published/snap/FILES/Participation/Reaching2008Summary.pdf>.

<sup>2</sup> It is curious that reform to the \$4.9 billion in annual High Cost program has been under constant discussion for at least the last five years (and rather constant attention by the Commission prior to that time), and any reform in the Commission's anticipated order will likely have a very significant "glide path" allowing carriers ample time to implement substantial change to core business operations. High Cost funding supports corporations with ample resources for very significant political lobbying and legal representation. The Low Income program, however, has been left largely untouched since its modern incarnation in 1996, and the total amount of funding involved is less than a third of that of the High Cost program. Yet reform of this program seems to be on a fast track for reforms that are likely to be harmful to the most vulnerable individuals in America with very little discussion of modern, industry-based solution.

successful. Not only would using a similar model for Link Up de-duplication remove the process from overly-burdensome government procurement rules, it is imminently appropriate given that it is industry that funds the Low Income program in the first place.

In any event, any significant changes must be phased in over a time period that would avoid disruption in services to poor Americans who desperately need these services. Significant changes to the program will have an inordinate impact on Low Income ETCs that concentrate on serving the poorest Americans. Nexus would welcome the opportunity to further engage with the Commission on these issues, and discuss further its idea to have the industry lead the way with finding a permanent solution rather than later.

Respectfully submitted,

A handwritten signature in blue ink, reading "Danielle Frappier". The signature is written in a cursive, flowing style.

Danielle Frappier